

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Leighton
Serial Number: 10/779,691
Filing Date: February 18, 2004
Art Unit: 2152
Examiner: Dailey, Thomas J.
For: **Network performance monitoring
in a content delivery service**

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY

This paper is submitted in response to the final Office action mailed July 18, 2008. An extension of time is filed concurrently to extend the response deadline through January 21, 2009. Both January 19th and 20th are federal holidays.

Reconsideration and favorable action are respectfully requested for the reasons set forth below.

REMARKS

Claims 1-8 are rejected under 35 U.S.C. § 102(e) as being anticipated by Skene et al, U.S. Publication No. 2001/0052016. With respect, this rejection is traversed for the reasons set forth below.

Skene is not prior art. As stated on page 1 of the specification here, the subject application is a continuation of Serial No. 09/620,658, filed July 20, 2000. Skene, the publication, is based on Serial No. 09/788,281, filed February 16, 2001. Thus, U.S. Publication No. 2001/0052016 itself is not prior art under 35 U.S.C. § 102(e).